

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: OMAHA DIST DRO

FILE NUMBER: 200580367

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED: In the office **Y** **Date:** June 17, 2005
At the project site **Date:**

PROJECT LOCATION INFORMATION:

State: CO

County: Elbert

Center coordinates of site by latitude & longitudinal coordinates: 39 16 40, 104 36 60

Approximate size of site/property (including uplands & in acres): 640

Name of waterway or watershed: Running Creek

SITE CONDITIONS: **Rural** prairie

| Type of aquatic resource ¹ | 0-1 ac | 1-3 ac | 3-5 ac | 5-10 ac | 10-25 ac | 25-50 ac | > 50 ac | Linear feet | Unknown |
|--|--------|--------|--------|---------|----------|----------|---------|-------------|---------|
| Lake | | | | | | | | | |
| River | | | | | | | | | |
| Stream | x | | | | | | | | |
| Dry Wash | | | | | | | | | |
| Mudflat | | | | | | | | | |
| Sandflat | | | | | | | | | |
| Wetlands | | | | | | | | | |
| Slough | | | | | | | | | |
| Prairie pothole | | | | | | | | | |
| Wet meadow | | | | | | | | | |
| Playa lake | | | | | | | | | |
| Vernal pool | | | | | | | | | |
| Natural pond | | | | | | | | | |
| Other water (identify type) Stock ponds | x | | | | | | | | |

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors¹:

| | If Known | | If Unknown Use Best Professional Judgment | | |
|---|----------|----|--|-----------------------|--------------------------------|
| | Yes | No | Predicted to Occur | Not Expected to Occur | Not Able To Make Determination |
| Is or would be used as habitat for birds protected by Migratory Bird Treaties? | | | x | | |
| Is or would be used as habitat by other migratory birds that cross state lines? | | | x | | |
| Is or would be used as habitat for endangered species? | | | | | x |
| Is used to irrigate crops sold in interstate commerce? | | | | | |

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: **Approved** X Preliminary

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

All ponds and tributaries at this site flow to Running Creek that flows to Box Elder Creek. Box Elder Creek flows to Empire Canal that flows to Bijou Canal that terminates in uplands south of Ft. Morgan.